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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548**

26068

**FILE:** B-209425

**DATE:** August 25, 1983

**MATTER OF:** Systonetics, Inc.

**DIGEST:**

1. Protester has not met its burden of proving that its low-cost system is capable of meeting contracting agency's requirements where the agency identified a number of specific requirements which it concluded the protester's system could not meet, and the protester has made no showing that its system can satisfy them.
2. Agency reasonably evaluated equipment available from protester where record shows that agency not only evaluated what protester offered, but also other equipment which could be obtained from protester.

Systonetics, Inc. protests the issuance of a purchase order by the Department of the Navy to Metier Management Systems under Metier's General Services Administration (GSA) automatic data processing (ADP) schedule contract. The purchase order was for an automated scheduling system. We deny the protest.

Early in 1981, the Navy conducted a survey of schedule contractors and determined that Metier was the only supplier offering a system that would meet its needs. Systonetics' "Vision" system was one of the systems considered but rejected by the Navy in the course of its survey.

The Navy subsequently prepared a notice of its intent to procure the Metier system for publication in the Commerce Business Daily (CBD). The notice, which appeared in the CBD on September 14, 1982, listed the hardware and software components of the system the Navy intended to purchase from Metier. It also provided:

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"No contract award will be made on the basis of offers/proposals received in response to this notice since the synopsis of intent to place an order against a schedule contract cannot be considered a request for offers/proposals. \* \* \* Firms may submit comparable equipment configurations for consideration stating what equipment would be offered, price, ability to meet delivery schedule, and any other info. which will show a bonafide ability to meet this specific requirement."

Systonetics responded to this notice, and submitted its Vision system for consideration. Apparently because of improvements made to the system after Systonetics entered into its GSA schedule contract, several of the proposed system components were not available from the schedule contract and thus previously had not been considered by the Navy. The agency reviewed the system submitted in response to the CBD announcement and found it inadequate to meet the agency's needs.

The Navy did note, however, that by combining some of the non-schedule system components offered by Systonetics with other components available from Systonetics' GSA schedule contract, it could create a system that came close to meeting its requirements. The Navy evaluated the cost of such a system, using the schedule prices for the schedule components, and the prices supplied by Systonetics for the non-schedule components. It concluded that the Systonetics systems would cost about \$20,000 more than the Metier system, and awarded the contract to Metier.

Agencies are authorized to place orders against ADP schedule contracts when certain conditions are satisfied. One condition is that the agency consider all responses to a CBD synopsis, and determine that the use of a schedule contract will result in the lowest overall cost to the agency. Defense Acquisition Regulation (DAR) § 4-1104.4 (b)(2)(DAC 76-27, May 15, 1981); Federal Procurement Regulations (FPR) § 1-4.1109-6 (amend. 211, January 5, 1981).

Systonetics contends that the system it offered in response to the CBD announcement, which was lower in price than the system purchased from Metier, would in fact satisfy the Navy's stated needs. It argues that this

system can provide all of the same capabilities as Metier's system.

The Navy disputes Systonetics' assertion, and identifies a number of specific requirements that it concluded the offered Vision system cannot meet. While Systonetics takes exception to several of these conclusions, it has made no showing that the offered system can satisfy all of the Navy's needs. For example, the Navy found that the system only allows for the use of three calendars, which is inadequate to meet its scheduling needs. Systonetics has offered no evidence to refute the agency's conclusion in this regard.

It is the protester's responsibility to present evidence sufficient to prove its case. Robinson Industries, Inc., B-194157, January 8, 1980, 80-1 CPD 20. In the absence of evidence demonstrating that the system offered by Systonetics in fact meets all of the Navy's requirements, we can only conclude that Systonetics has not satisfied its burden of proof. Therefore, this aspect of the protest is denied.

Systonetics also contends that the Navy did not evaluate its system adequately. The Navy disagrees, noting that it had previously conducted a thorough evaluation of the Vision system in the course of its survey of potential schedule suppliers. At that time, it met with representatives of Systonetics, who were given an opportunity to discuss and demonstrate their system. Systonetics argues, however, that the Navy's earlier consideration of its system is not relevant because significant enhancements were made to its Vision system during the period of more than 1 year that passed between the Navy's schedule survey and the contract award.

We cannot conclude that the Navy's evaluation of Systonetics' offer was inadequate. Consistent with applicable procurement regulations (DAR § 4-1104.4(b)(1), (5); FPR § 1-4.1109-6(f)), the CBD announcement was issued to determine whether issuance of a competitive solicitation would be more advantageous to the Government than proceeding with an ADP schedule award. See NCR Comten, Inc., B-208879, March 16, 1983, 83-1 CPD 266. The Navy's rejection of Systonetics' system was based both on the results of its 1981 schedule survey, and on its consideration of Systonetics' response to the CBD

announcement. In so doing, the Navy considered not only the Vision system as available from Systonetics' ADP schedule contract and as proposed by Systonetics in response to the CBD announcement, but also a third system comprised of components from each of the other two systems. The third system in fact was found to come close to meeting the Navy's needs and was rejected from further consideration only after its cost was found to exceed the cost of the Metier system. Under the circumstances, it appears that the Navy reasonably evaluated what Systonetics had available.

It its comments on the agency report to this Office, Systonetics alleged that the Navy's statement of the system features necessary to meet its requirements is nothing more than a list of features extracted from the awardee's promotional literature. The protester asserts that this demonstrates that the Navy deliberately stated its requirements in such a way that only Metier was capable of meeting them.

Based on the record before us, we find no merit to this contention. Systonetics has offered no support for its bare allegation that the Navy's requirements are taken literally from Metier's promotional literature. Further, there has been no showing that the Navy's requirements as stated in its report to this Office do not represent its actual minimum needs.

The protest is denied.

*for* *Harry R. Van Cleave*  
Comptroller General  
of the United States